

Message Text

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ACTION ARA-17

INFO OCT-01 ADP-00 AID-20 CIAE-00 COME-00 EB-11 FRB-02

INR-10 NSAE-00 RSC-01 TRSE-00 XMB-07 OPIC-12 CIEP-02

LAB-06 SIL-01 OMB-01 IGA-02 NSC-10 SS-15 STR-08

CEA-02 L-03 H-02 INT-08 RSR-01 SSO-00 NSCE-00 INRE-00

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FM AMEMBASSY QUITO

TO SECSTATE WASHDC IMMEDIATE 7805

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E. O. 11652: N/A

TAGS: EAID, EC

SUBJECT: IFI LOANS TO ECUADOR

REF: STATE 118344

1. SUMMARY. FOLLOWING IS ROUND UP OF ITT, ADA, AND MINAS CASES REQUESTED BY REFTEL PREPARATORY TO CONSIDERATION OF LOANS BY THE IRBD AND IDB. ITT LAND EXPROPRIATION CASE IS BEFORE SUPREME COURT WITH PARTIAL COMPENSATION THE PROBABLE OUTCOME. ADA IS NEGOTIATING A NEW CONTRACT FOR ITS CONCESSION. THE MINAS GROUP APPEARS TO BE BIDDING TIME, DURING WHICH IT IS NEITHER RAISING A CLAIM NOR SEEKING NEGOTIATIONS. EMBASSY BELIEVES VOTING AGAINST PENDING LOANS AT THIS TIME WOULD HAVE FAR MORE NEGATIVE THAN POSITIVE CONSEQUENCES IN THESE CASES. END SUMMARY.

2. ITT. THE JANUARY 1972 DECREE EXPROPRIATING LANDS BELONGING TO AACR IS BEFORE THE SUPREME COURT. FOLLOWING CONSULTATIONS WITH AACR IN NEW YORK, COUNSEL RECARDO
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CRESPO FILED COMPANY' S BRIEF IN EARLY JUNE CALLING UPON COURT, AMONG OTHER THINGS, TO DETERMINE BY ITSELF AMOUNT OF COMPENSATION, WHICH IS THE USUAL PRACTICE. THE ATTORNEY GENERAL HAS ASKED COURT TO ORDER DECREE EXECUTED AS WRITTEN, THAT IS, WITH COMPENSATION AT 1961 ASSESSED VALUE OF \$140,000. THIS OUTCOME APPEARS PROBABLE. CRESPO TOLD EMBOFF AND DESK OFFICER GUTHRIE, JUNE 12, THAT HE PLANS TO APPROACH SUBSECRETARY OF FOREIGN AFFAIRS JAIME MONCAYO, TO TELL THE LATTER THAT THERE IS A POTENTIAL FOREIGN AFFAIRS PROBLEM WHICH THE GOE OUGHT TO TRY TO HEAD OFF BY INSTRUCTIONS TO THE JUDGE.

3. IT IS IMPORTANT TO NOTE THAT IN APRIL, AFTER AMBAS- ADOR QUEVEDO REPORTED TO QUITO THAT THE UNITED STATES' REPRESENTATIVE ON THE IDB HAD BEEN INSTRUCTED BY TREASURY TO VOTE AGAINST MULTILATERAL LOANS BECAUSE OF THE ITT CASE, THE MANAGER OF INTERNATIONAL STANDARD ELECTRIC, ANOTHER ITT SPQWTW YFN GAVE A WRITTEN ASSURANCE WITH THE AUTHORIZATION OF ITT HEADQUARTERS TO THE MINISTER OF FINANCE THAT THE CORPORATION DID NOT SEEK INTERFERENCE WITH MULTILATERAL LENDING TO ECUADOR. THUS, IF CASE IS RAISED NOW, GOE WILL REGARD THIS AS A BREACH OF THE ASSURANCE AND THE CONSEQUENCES FOR ITT' S CONSIDERABLE SALES INTERESTS IN ECUADOR MAY BE ADVERSE.

4. ADA. BOTH THE GOE AND THE COMPANY DESIRE TO NEGOTIATE A NEW CONTRACT TO PERMIT RESUMPTION OF ADA OPERATIONS IN THE GULF OF GUAYAQUIL. ALTHOUGH SERIOUS NEGOTIATIONS WILL NOT GET UNDER WAY UNTIL THE TEXACOGULF CONTRACT HAS BEEN SETTLED, AND WHILE THE PARTIES ARE NOT CERTAIN TO COME TO MUTUALLY AGREEABLE TERMS, RESOLUTION OF ADA CASE WILL TURN ON THE ECONOMICS OF THE PROPOSED INVESTMENT IN THE GULF OF GUAYAQUIL.

5. IN A RECENT SPEECH OF WHICH WE OBTAINED THE TEXT, MINISTER OF NATURAL RESOURCES JARRIN EXPLAINED THE DECISION TO NEGOTIATE WITH ADA AS FOLLOWS: QUOTE: THE PHILIPS PETROLEUM COMPANY IS THE MOST HIGHLY QUALIFIED FIRM IN THIS FIELD AND HAS A HIGH PRIORITY OVER ALL THE OTHERS FOR THE PROCESSING OF GAS AS LIMITED OFFICIAL USE

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LIQUID METHANE, WHICH, IN OUR COUNTRY, REQUIRES A MINIMUM INVESTMENT OF APPROXIMATELY US \$500 MILLION UNTIL THE MARKETING OF L. N. G. IS REACHED. THIS COMPANY HAS COME TO ECUADOR, WITH OTHER EQUALLY IMPORTANT COMPANIES, FOR THE PURPOSE OF INVESTING IN THE GULF OF GUAYAQUIL AREA A SUM OF NEARLY US \$24 MILLION, AFTER A GOVERNMENT ORIGINALLY GRANTED THE CONCESSION TO

SIX ECUADOREANS WHO TRANSFERRED THEIR CONTRACTS TO ANOTHER SIX COMPANIES WHICH ALSO PERFORMED NO WORK. WHAT THEY DID, IN WHAT MANNER AND UNDER WHAT CIRCUMSTANCES THEY DID, IS NOW BEING CLARIFIED BY ONE OF THE SPECIAL COURTS, ALL OF WHICH, NO MATTER HOW BAD IT MAY HAVE BEEN, IS NOT SUFFICIENT REASON FOR STOPPING THE EXPLOITATION OF HYDROCARBONS IN THAT MOST IMPORTANT AREA, ENDANGERING THE DEVELOPMENT OF ACTIVITIES WHICH WILL BENEFIT THE CITY OF GUAYAQUIL, AND FACING PROBLEMS AND INTERNATIONAL CLAIMS FOR RECOGNITION OF THE INVESTMENTS MADE.

6. QUOTE: LAWYERS ARE FAMILIAR WITH THE BASIC PRINCIPLE THAT A DECLARATION OF NULLITY RESTORES EVERYTHING TO THE CONDITION EXISTING BEFORE THE DEFINITION OF THOSE JURIDICAL MEANS THAT GAVE RISE TO SUCH DECLARATION OF NULLITY, AND THE PARTIES ARE THEN AT LIBERTY TO NEGOTIATE, OF COURSE BY REMEDYING THOSE DEFECTS AND IRREGULAR ACTIONS WHICH OCCASIONED SUCH NULLIFICATION. THIS IS WHAT WE ARE DOING, AND IT CANNOT BE SAID THAT IT IS A RECOGNITION, AND STILL LESS A CONFIRMATION, OF THE UNETHICAL, INCORRECT OR ILLEGAL ACTS WHICH WERE COMMITTED.

7. QUOTE: THE NEGOTIATIONS WE HAVE MADE AIM AT IMPROVING THE MINIMUM TERMS AND CONDITIONS OF THE HYDROCARBON LAW AND WILL MAKE IT POSSIBLE TO DEVELOP, WITHIN THE SHORTEST POSSIBLE TIME, AN IMPORTANT ACTIVITY THAT WILL ENCOURAGE THE HARMONIOUS GROWTH OF ONE OF THE MOST IMPORTANT REGIONS IN THE COUNTRY. THE NEGOTIATIONS ARE CLEAN, CLEAR, HONEST AND LAWFUL, AND THERE CAN BE NO COMPARISON WITH THOSE SITUATIONS WHICH BECAME CRIMES AS DESCRIBED IN OUR CRIMINAL CODE. IT IS INCUMBENT ON US TO ENCOURAGE THE EXPLOITATION OF LIMITED OFFICIAL USE

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OUR HYDROCARBON RESOURCES, AND THIS WE MUST DO IN SPITE OF SUSPICION AND DISTORTION OF THE FACTS. UNQUOTE.
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8. MINAS Y PETROLEOS. FOLLOWING THE CANCELLATION OF MINAS Y PETROLEOS' CONTRACT FOR NON PAYMENT OF SURFACE RENTALS FOR 1972, THE GOE TOOK POSSESSION OF THE SMALL AMOUNT OF TECHNICAL EQUIPMENT OF THE CONSORTIUM. MINAS RETAINS AN OFFICE AND A STAFF OF TWO ECUADOREANS. IN THE MONTHS LEADING UP TO THE CANCELLATION OF THE CONTRACT, MINISTRY OF NATURAL RESOURCES TOOK THE POSITION THAT THE COMPANY MUST FIRST PAY SURFACE RENTALS AND THEN THE MINISTRY WOULD TALK ABOUT FUTURE CONDITIONS FOR OPERATIONS. WE BELIEVE THAT IS STILL THE POSITION OF THE GOE, IF THE MINAS Y PETROLEOS CONSORTIUM RETAINS INTEREST IN RESUMING OPERATIONS UNDER NEW CONTRACT TERMS. AS THE DEPARTMENT IS AWARE, THE CONSORTIUM MEMBERS WERE OF MIXED VIEWS OVER PAYMENT OF THE SURFACE RENTALS AND IN THEIR DEGREE OF INTEREST IN FURTHER OPERATIONS IN ECUADOR. IN THEIR ABSENCE FROM THE SCENE, WE DO NOT KNOW THEIR CURRENT INDIVIDUAL OR GROUP THINKING. MINAS' LOCAL ATTORNEY HAS NOT HEARD FROM THE CONSORTIUM MEMBERS SINCE SHORTLY AFTER THE CANCELLATION. HE BELIEVES THEY MAY BE WAITING TO SEE WHAT DEALS OTHER COMPANIES ARE ABLE

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TO MAKE BEFORE DECIDING WHETHER TO SEEK TO REENTER ECUADOR.

9. IN SUMMARY, THE EMBASSY IS NOT AWARE THAT THE AMERICAN PARTIES IN THESE THREE CASES PRESENTLY DESIRE

THE USG TO OPPOSE LOANS TO ECUADOR IN MULTILATERAL
INSTITUTIONS BECAUSE OF THEIR DISPUTES, NOR DO WE
SEE HOW SUCH AN ACTION WOULD SERVE THE INTERESTS THAT
THEY MAY HAVE IN FUTURE DEALINGS WITH ECUADOR. AT
THE SAME TIME, WE ARE GREATLY CONCERNED ABOUT THE
SPILL- OVER ONTO OTHER INTERESTS, PARTICULARLY TEXACO-
GULF' S ABILITY TO NEGOTIATE A SATISFACTORY CONTRACT,
IF THE USG DECIDED TO OPPOSE LOANS AT THIS TIME.
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